

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

MYRON GAYLORD BRANDON,

Petitioner,

v.

DEPARTMENT OF CORRECTIONS,

Respondent.

Case No. C05-5417FDB

REPORT AND  
RECOMMENDATION TO DENY  
APPLICATION TO PROCEED  
*IN FORMA PAUPERIS*

Noted for August 12, 2005

This case has been referred to Magistrate Judge Karen L. Strombom pursuant to 28 U.S.C. § 636(b)(1) and Local MJR 3 and 4. Petitioner is an inmate at the Monroe Correctional Complex. He filed a motion to proceed *in forma pauperis* (Dkt. # 1), but has paid the court filing fee. Accordingly, the court should deny the application.

DISCUSSION

A district court may permit indigent litigants to proceed *in forma pauperis* upon completion of a proper affidavit of indigency. See 28 U.S.C. § 1915(a). However, the court has broad discretion in denying an application to proceed in forma pauperis. Weller v. Dickson, 314 F.2d 598 (9th Cir. 1963), *cert. denied*, 375 U.S. 845 (1963).

On June 10, 2005, the clerk received petitioner's petition and application to proceed *in forma pauperis*. (Dkt. #1). On July 8, 2005, petitioner paid the court filing fee. (Dkt. #4). Because he has paid the filing fee, petitioner's application to proceed *in forma pauperis* is therefore moot.

CONCLUSION

Because petitioner has paid the court filing fee, the undersigned recommends that the court deny his application to proceed *in forma pauperis*.

Pursuant to 28 U.S.C. § 636(b)(1) and Rule 72(b) of the Federal Rules of Civil Procedure ("Fed. R. Civ. P."), petitioner shall have ten (10) days from service of this Report and Recommendation to file written objections thereto. See also Fed. R. Civ. P. 6. Failure to file objections will result in a waiver of those objections for purposes of appeal. Thomas v. Arn, 474 U.S. 140 (1985). Accommodating the time limit imposed by Rule 72(b), the clerk is directed set this matter for consideration on **August 12, 2005**, as noted in the caption.

DATED this 15th day of July, 2005.



Karen L. Strombom  
United States Magistrate Judge